

REMARKS

Favorable reconsideration of this application, in light of the preceding amendments and following remarks, is respectfully requested.

Claims 1-21 are pending in this application. Claim 21 is new, no new matter is added.

Request for Examiner Interview

Applicants respectfully request the courtesies of an Examiner Interview. In the event the Examiner does not find the case in condition for allowance based on this response, the Examiner is respectfully requested to contact the undersigned at the Examiner's earliest convenience.

Rejections under 35 U.S.C. § 102

Kadaba

Claims 1-20 stand rejected under 35 U.S.C. § 102(e) as being anticipated by US Patent Application, Pub. No. US 2002/0172217 A1 to Kadaba et al. (Kadaba). Applicants respectfully traverse this rejection for the reasons detailed below.

The Examiner alleges that the control channel structure disclosed by Kadaba teaches the claimed physical structure of the control channel. The Examiner relies on paragraph [0011] of Kadaba to disclose this feature. Paragraph [0011] of Kadaba discloses a multiple mode data communication system and method that provides the necessary flexibility to allow scheduled and autonomous transmissions. There is no reference to a control channel structure in paragraph [0011]. The Examiner further relies on paragraph [0051] of Kadaba to disclose this feature. Paragraph [0051] of Kadaba discloses that the wireless unit **uses the control channel structure** to operate using the multiple mode data communication system. Therefore, Kadaba does

not disclose or suggest, at least, an uplink control channel where **"the physical structure of the control channel and the data arrangement in the control channel being selected based on a user transmission mode,"** as recited in claim 1. In contrast, paragraph [0026] of Kadaba discloses **only one control channel structure** for the forward (uplink) control channel, and therefore, it is not possible for Kadaba to select a structure, because there is only one structure. Claims 9 and 20 are patentable over Kadaba for reasons at least somewhat similar to those discussed above with regard to claim 1. Claims 2-8 and 10-19 are patentable over Kadaba at least by virtue of their dependency from claims 1 and 9.

The Applicants, therefore, respectfully request reconsideration and withdrawal of the rejection to claims 1-20 under 35 U.S.C. § 102(e).

New Claim

New claim 21 has been added. This claim is also believed to be patentable over the cited art. Allowance of new claim 21 is requested.

CONCLUSION

In view of the above remarks and amendments, the Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) hereby petition(s) for a one (1) month extension of time for filing a reply to the outstanding Office Action and submit the required \$130.00 extension fee herewith.

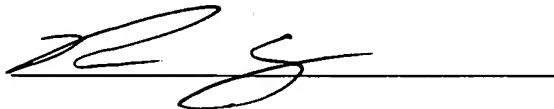
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By



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